

**ADOPTED REGULATION OF
THE REAL ESTATE COMMISSION**

LCB File No. R097-14

Effective April 4, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 645.190 and 645.400; §2, NRS 645.190 and 645.605; §3, NRS 645.050, 645.190 and 645.605; §§4 and 10-16, NRS 645.190 and 645.575; §5, NRS 645.190, 645.343 and 645.575; §§6-9, NRS 645.190 and 645.343; §17, NRS 645.050, 645.190, 645.630, 645.633, 645.635 and 645.660; §18, NRS 645.050, 645.190 and 645.310; §19, NRS 645.190.

A REGULATION relating to real estate; revising provisions relating to the verification of experience of certain licensees; revising provisions relating to an application for, and use of, a cooperative certificate; revising provisions relating to applications for the approval of educational courses for original licensing; exempting certain schools from requiring preapproval before offering a course in broker management under certain circumstances; revising provisions relating to schools from which the Real Estate Commission will accept certain courses without preapproval of the school; revising provisions setting forth the circumstances under which the Real Estate Administrator may withdraw approval of a course; revising provisions relating to the reapproval of an approved course; revising provisions relating to a student's completion of a course and proof thereof; revising provisions relating to postlicensing education; revising provisions relating to the standards for, and approval of, courses of continuing education; prohibiting certain persons from receiving credit for completing a course; revising provisions relating to annual accountings by brokers who maintain trust accounts; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing regulations require an employing real estate broker to submit to the Real Estate Division of the Department of Business and Industry a verified statement of the experience a licensee has gained while associated with the broker. (NAC 645.141) **Section 1** of this regulation extends this reporting requirement to a real estate broker-salesperson who is acting as manager of a principal or branch office operated by a real estate broker.

Existing regulations set forth the requirements for an application for a cooperative certification for a real estate broker who is licensed in another state and wishes to work in cooperation with a Nevada real estate broker. (NAC 645.180) **Section 2** of this regulation revises the information which must be included with such an application.

Section 3 of this regulation revises the conditions governing the use of a cooperative certificate.

Existing law requires the Real Estate Commission to adopt regulations establishing standards for continuing education for licensees. (NRS 645.575) **Section 14** of this regulation amends certain standards for those courses. **Section 15** of this regulation amends the requirements for approval of a course for continuing education. **Sections 4 and 15** of this regulation revise provisions relating to the proof of compliance with continuing education requirements that the Division must receive before it will renew the license of certain licensees.

Existing regulations require certain schools that wish to offer courses to meet educational requirements for licensure to apply to the Commission for approval. (NAC 654.403) **Section 6** of this regulation adds to the list of information that must be submitted to the Commission by such a school.

Existing regulations require a school to seek approval by the Commission before offering a course in broker management. (NAC 645.437) **Section 8** of this regulation exempts certain schools from having to obtain such approval if the course includes certain hours and subjects of instruction.

Existing regulations provide that the Commission may accept a course of instruction to fulfill the educational requirements for original licensing from certain schools without prior approval of the school. (NAC 645.440) **Section 9** of this regulation provides that the Commission will accept such a course from a set of schools that is further limited.

Existing regulations authorize the Real Estate Administrator to withdraw approval of a course if the Administrator determines, pursuant to an audit or otherwise, that the course does not meet the prescribed standards for the course. (NAC 645.4434) **Section 10** of this regulation clarifies that the audit must be conducted by the Division and authorizes withdrawal of approval based on student evaluations or an investigation by the Division.

Existing regulations provide that the Division shall, on behalf of the Commission, reapprove an approved course if no changes in the course have occurred since the course was last approved or reapproved. (NAC 645.4436) **Section 11** of this regulation revises this provision to provide that the Division shall reapprove such a course if no material changes have occurred since the course was last approved or reapproved. **Section 11** also provides that, if the course is designated as a law and legislation update, the Division shall reapprove the course only once.

Existing regulations establish certain conditions which must be satisfied by a student to receive a certification of completion for an approved course. (NAC 645.4438) **Section 12** of this regulation requires the student to satisfy those conditions to have his or her name included on a roster of attendees which the sponsor of the course submits to the Division.

Existing law authorizes the Commission to establish a postlicensing curriculum of continuing education that must be completed by a licensee within 1 year after receiving an initial license from the Division. (NRS 645.575) **Section 13** of this regulation amends the conditions under which the Commission will grant credit for a course for postlicensing education. **Section**

13 also requires the sponsor of a course to provide a certificate of completion, instead of a certified copy of the record, to a licensee upon his or her successful completion of the course.

Section 16 of this regulation prohibits a person who is approved to teach a course from taking the course for credit to meet the requirements for continuing education.

Section 17 of this regulation revises provisions establishing the amounts of certain administrative fines.

Existing regulations require certain real estate brokers to provide to the Division an annual accounting which reconciles trust accounts maintained by those brokers. (NAC 645.806) **Section 18** of this regulation revises the circumstances under which such an accounting must be provided, requires the submission of a declaration form by brokers who are not required to provide an annual accounting and provides for an administrative fine for failure to comply with these provisions.

Section 1. NAC 645.141 is hereby amended to read as follows:

645.141 1. The Division will require a verified statement from an employing broker *or a real estate broker-salesperson who is acting as manager of a principal or branch office pursuant to NAC 645.178* indicating extended experience of any licensee associated with the ~~employing~~ broker *or broker-salesperson* in order to determine the extent of experience the licensee has gained while associated with the broker ~~or~~ *or broker-salesperson.*

2. This information must be reported on a form provided by the Division which must request the following information:

- (a) The period of association with the broker ~~or~~ *or broker-salesperson.*
- (b) The average number of hours worked per week for *, or under the supervision of,* the broker ~~or~~ *or broker-salesperson.*
- (c) Any other information concerning the activities of the licensee which should be considered as contributing towards the licensee's experience while associated with the broker ~~or~~ *or broker-salesperson.*

Sec. 2. NAC 645.180 is hereby amended to read as follows:

645.180 1. A real estate broker who is licensed in another state and wishes to work in cooperation with a Nevada real estate broker must apply to do so on a form provided by the Division. The application must be accompanied by:

(a) A copy of his or her current license issued in the other state;

(b) A history of his or her employment for the past 10 years;

(c) Information identifying him or her and the Nevada broker with whom the applicant wishes to cooperate;

(d) *Information identifying the client whom the applicant will be representing;*

(e) Information identifying the real property which will be the subject of the transaction conducted under the cooperative certificate;

(f) A history of any disciplinary, criminal or other legal proceeding involving the real estate salesperson or broker-salesperson who will be working for the applicant under the cooperative certificate;

~~(e)~~ (g) A list of other cooperative agreements currently in effect with the Nevada broker;

~~(f)~~ (h) A photograph of the applicant;

~~(g)~~ (i) A copy of the license of the real estate salesperson or broker-salesperson who will be working for the applicant; and

~~(h)~~ (j) A statement of consent by the Nevada broker to the cooperative agreement.

2. The Nevada broker and out-of-state broker must verify the truth of the contents of the application.

3. The application must be completed personally by the out-of-state broker, and no licensed Nevada broker or employee of the Division may assist in the preparation of any part of the application.

4. The required fee must be paid at the time of filing. If the Administrator does not issue the certificate as applied for, the fee will not be refunded.

5. The applicant must furnish proof satisfactory to the Administrator that ~~the~~ :

(a) *The applicant has a current active real estate broker's license or certificate issued by ~~the~~ another state or territory of the United States or the District of Columbia;*

(b) *The jurisdiction which issued the license or certificate is the jurisdiction in which his or her principal place of business is located ~~it~~; and*

(c) *The applicant is in good standing with the authority which issued the license or certificate.*

6. A person who resides in this State and holds a real estate license issued by another state is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.

7. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator may consider:

(a) The results of the Division's investigation of matters stated in the application and other matters that have come to the attention of the Division as a result of the investigation;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with:

(1) Any requirement of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or any other specific statute that is applicable to real estate transactions; ~~or~~

(2) Any similar statutory or regulatory requirement of another jurisdiction that is applicable to real estate transactions ~~it~~; *or*

(3) Any order imposing penalties that was issued by the licensing authority of another jurisdiction and was in effect at the time the applicant applied for the cooperative certificate.

Sec. 3. NAC 645.185 is hereby amended to read as follows:

645.185 1. A certificate authorizing an out-of-state broker to cooperate with a Nevada broker is valid for *the earlier of* 12 months after the date of issuance ~~{}~~ *or the completion or termination of the single transaction identified in the application for the certificate and expires automatically when the transaction has been completed or has been terminated.* The fee paid for the issuance covers *only* that period ~~{}~~ *or transaction, as applicable.* The certificate is not transferable.

2. ~~{An}~~ *A Nevada broker working with an* out-of-state broker holding such a certificate shall immediately report any change in his or her *license status or* address *or the license status or address of the out-of-state broker* to the ~~{Administrator}~~ *Division. Any violation of this subsection subjects the certificate to revocation.*

3. If, at any time during which a cooperative certificate is in effect, the out-of-state broker or the Nevada broker wishes to terminate the relationship, he or she must give written notice of the termination to the Division and the broker with whom he or she has been cooperating and the out-of-state broker shall immediately surrender his or her certificate to the Division.

4. If the license of the out-of-state broker expires or is inactivated, suspended, revoked or cancelled, the out-of-state broker shall immediately give written notice to the Division of each Nevada broker with whom he or she is cooperating and surrender his or her cooperative certificate to the Division.

5. The Administrator may not issue a cooperative certificate to an out-of-state association, partnership or corporation which is licensed as a broker. Only a natural person who is a broker may be issued such a certificate.

6. When acting under a cooperative certificate, an out-of-state broker shall work through the cooperating Nevada broker or a licensee associated with a Nevada broker. The Nevada broker is in charge of the transaction from beginning to end.

7. Any money received in a cooperative transaction may be handled only by the cooperating Nevada broker in accordance with NRS 645.310.

8. Each out-of-state broker, while cooperating with a Nevada broker, is governed by the provisions of this chapter and chapter 645 of NRS. Any violation of such a provision by the out-of-state broker subjects his or her cooperative certificate and the Nevada broker's license to fine or suspension, or both, or revocation. By accepting a cooperative certificate, the out-of-state broker shall be deemed to have appointed the Nevada broker as his or her agent for service of all notices and process in any proceeding initiated by the Division pursuant to chapter 645 of NRS ~~+~~ *related to the transaction for which the cooperative certificate was issued.*

9. A cooperating out-of-state broker may authorize only one broker-salesperson or one salesperson employed by him or her to act in his or her behalf. The authorization must be on a form supplied by the Division, and a copy must be sent to the Division before the authorized representative of the out-of-state broker may conduct any transaction. The authorized representative shall carry the completed form with him or her whenever the authorized representative is in Nevada for the purpose of conducting his or her real estate business. ~~The Division shall establish the time during which the authorization is valid. Such an authorization is renewable.~~

10. An out-of-state broker may cooperate with more than one Nevada broker and a Nevada broker may cooperate with more than one out-of-state broker. Each arrangement is considered a separate agreement for which the appropriate form must be completed and submitted, the appropriate fee paid and a separate cooperative certificate obtained.

11. An out-of-state broker may not use a cooperating broker's certificate as authority to sell or attempt to sell real estate in Nevada ~~{to a resident of Nevada.}~~ *on behalf of the owner of that real estate.* Such a certificate may be used only for the purpose of allowing the out-of-state broker or salesperson to ~~{offer real estate in Nevada for sale to}~~ *represent* a person other than a resident of Nevada ~~{}~~ *in the purchase of real estate in Nevada.*

Sec. 4. NAC 645.313 is hereby amended to read as follows:

645.313 The Division shall not renew the license of an active broker, broker-salesperson or salesperson unless ~~{he or she submits to}~~ the Division *has received* proof of compliance with the requirements for continuing education set forth in NRS 645.575 and the regulations adopted pursuant thereto.

Sec. 5. NAC 645.400 is hereby amended to read as follows:

645.400 For the purposes of NAC 645.400 to 645.467, inclusive, "school" includes:

1. Any university, school or community college which is a part of the Nevada System of Higher Education, or any other university or college bearing the same or an equivalent accreditation.

2. Any professional school or college licensed by the Nevada Commission on Postsecondary Education.

~~{3. Any out-of-state professional school or college licensed or accredited by a real estate commission, a department of education or an equivalent agency of any other state.}~~

Sec. 6. NAC 645.403 is hereby amended to read as follows:

645.403 A school that wishes to offer ~~{courses}~~ *a course* to meet the educational requirements for ~~{licensure}~~ *original licensing* under chapter 645 of NRS must apply to the Commission annually for approval on a form prescribed by the Division and pay the appropriate fees. The application must include, without limitation:

1. The name and address of the school;
2. The type of school and a description of its facilities;
3. Information concerning the ownership of the school, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;
4. A list of the instructors ~~{}~~, *including, without limitation, any guest lecturers;*
5. A list of the courses to be offered and ~~{a}~~ *the title, objectives and* topical syllabus for each ~~{}~~ *course;*
6. *A proposed schedule of each course for 1 year that includes, without limitation, the dates, times and locations of each class;*
7. *An explanation for how each course meets the educational requirements for original licensing;*
8. The allotment of time for each subject;
- ~~{7.}~~ ~~A proposed schedule of courses for 1 year;~~
- ~~{8.}~~ 9. *If a course is a distance education course, any information required by the Commission to determine whether the course satisfies the requirements of NAC 645.443;*
10. The titles, authors, ~~{and}~~ publishers, *dates of publication and editions* of all required textbooks;

~~19.~~ **11.** *A copy of any manual, handout or other course material to be used by the instructor or students;*

12. A copy of each examination to be used and the correct answer for each question;

~~10.~~ **13.** A statement of:

- (a) The purpose of the school;
- (b) The fees to be charged;
- (c) The days, times and locations of classes;
- (d) The number of quizzes and examinations;
- (e) The grading systems, including the methods of testing and standards of grading;
- (f) The requirements for attendance; and
- (g) The location of the students' records;

~~11.~~ **14.** A statement as to whether the school or any instructor employed by the school has been disciplined by any governmental agency in this or any other state; and

~~12.~~ **15.** A statement *of the requirement* that to pass a course, a student must earn at least 75 percent of the points possible for the entire course.

Sec. 7. NAC 645.404 is hereby amended to read as follows:

645.404 1. If a school has applied for and received the Commission's approval to offer courses to meet requirements for licensure under chapter 645 of NRS, the school shall, as a condition of the approval:

(a) Maintain a record of each student's attendance and certification in any of those courses for 7 years after the student's enrollment and shall have such records open to inspection by the Division, upon its request, during the school's business hours.

(b) Upon a transferring student's request, furnish the school to which the student is transferring a copy of his or her attendance record and certification for each of those courses which he or she has completed.

(c) Upon a student's request, furnish the Division a transcript of the record of his or her grades and attendance.

2. A school that does not meet the definition of a "school" set forth in ~~either~~ subsection 1 ~~or 3~~ of NAC 645.400 must provide evidence to the Division that the school is licensed to operate by the Commission on Postsecondary Education.

Sec. 8. NAC 645.437 is hereby amended to read as follows:

645.437 1. ~~A~~ *Except as otherwise provided in subsection 3, a* course of instruction in broker management that is designed to fulfill the educational requirements for issuance of an original license which are described in paragraph (d) of subsection 2 of NRS 645.343 must be approved by the Commission.

2. To be approved by the Commission, a course in broker management must include, without limitation:

(a) Six hours of instruction relating to office policy and procedure, risk management, errors and omissions, controlled business arrangements, compensation, employee-employer relationships and the status of independent contractors;

(b) Three hours of instruction relating to creating business plans;

(c) Three hours of instruction on forms used by real estate brokerages for real estate transactions;

- (d) Six hours of instruction that provides an overview of programs for financing real estate transactions, including, without limitation, terminology relating to such programs, the cost of transactions, customary transaction closing costs, and transaction cost and net sheets;
 - (e) Six hours of instruction in state and local laws;
 - (f) Six hours of instruction on federal laws governing real estate transactions;
 - (g) Six hours of instruction on professional relationships between agents and their clients;
 - (h) Three hours of instruction on valuation of real estate and general principles of economics;
- and
- (i) Six hours of instruction on emerging trends and practices.

3. The Commission will accept, without prior approval, a course of instruction in broker management that is offered by any university, school or community college of the Nevada System of Higher Education, or any other university or college bearing the same or equivalent accreditation, if the course includes, at a minimum, the hours and subjects of instruction set forth in paragraphs (a) to (i), inclusive, of subsection 2.

Sec. 9. NAC 645.440 is hereby amended to read as follows:

645.440 1. Except as otherwise provided in subsection 2, before any school offers or conducts a course of instruction designed to fulfill the educational requirements for issuance of an original license under chapter 645 of NRS, the school must be approved by the Commission.

2. Unless the course is a course in broker management, the Commission ~~may~~ **will** accept such a course from : ~~any of the following schools without prior approval of the school:~~

- (a) Any university, school or community college of the Nevada System of Higher Education, or other university or college bearing the same or equivalent accreditation.
- (b) ~~Any other school offering a course in real estate, business or economics if the course is:~~

~~— (1) Approved by any real estate commission or division in any state of the United States or province of Canada; or~~

~~— (2) In the judgment of the Commission, equivalent in quality to the courses of colleges or universities accredited by any regional accrediting agency recognized by the United States Department of Education.~~

~~— (c) The [American Institute of Real Estate Appraisers, the] American Society of Appraisers, the Appraisal Institute [;] **or** the International Association of Assessing Officers [for the Society of Real Estate Appraisers]~~ for courses in real estate appraisal consisting of not less than 45 hours of instruction. Forty-five hours of instruction shall be deemed to be the equivalent of 3 semester credits in appraisal.

Sec. 10. NAC 645.4434 is hereby amended to read as follows:

645.4434 1. If the Administrator determines, whether pursuant to *student evaluations, to an audit or investigation conducted by the Division*, or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Administrator shall notify the sponsor of the course of his or her intent to withdraw approval of the course. The notice must include the specific reasons upon which the Administrator is basing the decision to withdraw approval of the course. Not later than 30 days after the date on which he or she receives the notice, the sponsor may provide a written response to the Administrator that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and:

- (a) Withdraw approval of the course;
- (b) Allow the course to remain approved if certain specific enumerated conditions are met; or

(c) Allow the continued approval of the course.

↪ If the Administrator decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the Administrator's decision to withdraw approval to the sponsor by certified mail, return receipt requested to the sponsor's last known business address.

2. If the Administrator withdraws approval of a course, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the course.

3. The sponsor may appeal the decision of the Administrator to withdraw approval of a course by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the course becomes effective.

4. If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course at a regularly scheduled meeting and will:

(a) Affirm the decision of the Administrator to withdraw approval of the course;

(b) Suspend approval of the course for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Administrator to withdraw approval of the course.

Sec. 11. NAC 645.4436 is hereby amended to read as follows:

645.4436 ~~The~~ *Except as otherwise provided in this section, the* Division shall ~~on behalf of the Commission,~~ reapprove an approved course if no *material* changes in the course have occurred since the course was last approved or reapproved. *If the course is designated as*

presenting an update on law and legislation, the Division shall reapprove the course only once.

Sec. 12. NAC 645.4438 is hereby amended to read as follows:

645.4438 1. To receive a certificate of completion for an approved course *and have his or her name included on the roster of attendees which the sponsor of the course submits to the Division pursuant to paragraph (b) of subsection 4 of NAC 645.455*, a student must:

(a) Direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction; and

(b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of ~~voice pagers, beepers and telephones.~~ *cellular telephones, laptop computers, tablet computers or other electronic devices.*

2. An instructor ~~shall~~ :

(a) *Shall* deny the award of a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1 ~~H~~ ; *and*

(b) *Shall not include the name of the student on the roster of attendees which the sponsor of the course submits to the Division pursuant to paragraph (b) of subsection 4 of NAC 645.455.*

3. If an instructor denies the award of a certificate of completion to a student, the student may, within 30 days after that denial, file a written request with the Administrator to review the matter. If the written request contains allegations which, if true, would qualify the applicant to receive a certificate of completion ~~H~~ *and credit for completing the course*, the Administrator

shall set the matter for an informal hearing before him or her to be conducted as soon as practicable.

Sec. 13. NAC 645.4444 is hereby amended to read as follows:

645.4444 1. An application for the approval of a course for postlicensing education must be submitted to the Division on a form provided by the Division for review and presentation to the Commission.

2. The Commission will not grant retroactive approval for a course in postlicensing education.

3. The Commission will grant credit for a course for postlicensing education ~~only~~ if the *course meets the requirements set forth in subsection 4 of NAC 645.4442 and the* sponsor of the course:

(a) Certifies the attendance of the licensees who take the course for credit.

(b) Maintains for at least 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:

(1) The name of the licensee in attendance and the number of his or her license;

(2) The title and number of the course;

(3) The hours of instruction attended and the dates of attendance by the licensee; and

(4) A statement that the licensee has successfully completed the course.

(c) Assures the Commission that an approved instructor will preside throughout the course.

(d) Requires each licensee who takes the course to:

(1) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the Division and to receive a score of at least 75 percent to pass the course;

- (2) Prove his or her identity before the licensee is allowed to take any examination; and
- (3) Complete the entire course to receive credit for taking the course.

(e) Gives credit for only the number of hours for which the course has been approved by the ~~Division~~ *Commission* to a licensee who completes the course.

(f) Publishes a policy for retaking an examination which a licensee has failed.

4. If a course for postlicensing education has been approved, the sponsor of the course shall provide a ~~certified copy of the record~~ *certificate* of completion to the licensee upon his or her completion of the course. ~~The Division shall accept the certificate as proof of completion of the course by the licensee.~~ The certificate ~~of a sponsor~~ must contain:

- (a) The name of the sponsor;
- (b) The name of the licensee and his or her license number;
- (c) The title of the course and the number of hours for which the course has been approved;
- (d) The dates of instruction;
- (e) The number ~~of the sponsor~~ assigned *to the course* by the Division and a statement that the course was approved by the Commission;
- (f) The signature of the person who is authorized to sign for the sponsor; and
- (g) A statement indicating that the licensee fulfilled the requirements to pass the course.

Sec. 14. NAC 645.450 is hereby amended to read as follows:

645.450 1. A course for continuing education must contain:

(a) Current information on real estate which will improve the professional knowledge of the licensee *with regard to the areas described in subsection 2* and enable him or her to give better service to the public.

(b) Information that relates to ~~pertinent~~ Nevada laws and regulations ~~relating to real estate transactions in this State.~~

2. The ~~Commission considers courses in the~~ following areas ~~to be~~ *are* acceptable for *courses in* continuing education:

- (a) Ethics of selling real estate;
- (b) Legislative issues which concern the practice of real estate or licensees, including ~~pending and~~, *without limitation*, recent legislation ~~and~~ *and revisions to this chapter*;
- (c) The administration of real estate law and regulations, including licensing and enforcement;
- (d) Real estate financing, including mortgages and other *financing* techniques;
- (e) The measurement and evaluation of the market for real estate, including evaluations of sites, market data and studies of feasibility;
- (f) The administration of real estate brokerage, including the management of the office, trust accounts and employees' contracts;
- (g) Real estate mathematics;
- (h) The management of real property, including *residential and commercial* leasing agreements, procedures for accounting and contracts for management;
- (i) The exchange of real property;
- (j) Planning and zoning for land use;
- (k) Real estate securities and syndications;
- (l) Accounting and taxation as applied to real property;
- (m) The development of land ~~and~~, *including, without limitation, issues relating to the development or redevelopment of farms and ranches*;

- (n) Agency and subjects related to agency;
- (o) The use of calculators and other technologies as applied to the practice of real estate;
- (p) The preparation of real estate contracts; ~~and~~
- (q) Personal development courses ~~H~~, *including, without limitation, cross-cultural*

communications;

(r) International real estate transactions;

(s) Antitrust law;

(t) Issues relating to consumer protection;

(u) Disclosures required during the sale or lease of real property, including, without limitation, information required pursuant to NRS 116.4103, 116.4109 and 116B.760;

(v) Commercial real estate; and

(w) Environmental issues, including, without limitation, issues relating to energy and water conservation and environmental responsibility.

3. ~~If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 645.455, NAC 645.457 and 645.463 and subsection 1 of NAC 645.4432, the Administrator may accept the following courses as meeting standards for continuing education without application or specific approval:~~

~~—(a) Any course in real estate or a directly related subject if the course has been previously approved by the Commission.~~

~~—(b) Any course in real estate or a directly related subject if the course is offered by an accredited university or community college for college credit.~~

~~4.]~~ The ~~Commission~~ *Division* may, upon application ~~]~~ *and on behalf of the Commission*, approve a course conducted by any other school, professional society or

organization if the ~~{Commission}~~ *Division* finds that the course meets the standards *established by the Commission* for continuing education.

~~{5.}~~ 4. The following kinds of courses and activities do not meet the standards for continuing education:

(a) A course *that is* designed to prepare students for examination ~~{}~~, *commonly known as a “cram course.”*

(b) A course *that is* designed to develop or improve clerical, office or business skills that are not related to the activities described in NRS 645.030, 645.035 and 645.040, such as typing ~~{}~~ *or keyboarding*, shorthand, the operation of business machines, the use of computers, the use of computer software, speed-reading, the improvement of memory, and writing letters and reports.

(c) A meeting for the promotion of sales, a program of office training, or other activity which is held as part of the general business of the licensee.

(d) A course for the orientation of licensees, such as a course offered for that purpose through local real estate boards.

(e) A course for the development of instructors.

~~{6.}~~ 5. The *Division, on behalf of the* Commission , will not approve more than:

(a) Seven full hours of credit per day of instruction in a *classroom* course for continuing education if a final examination is not given; or

(b) Eight full hours of credit per day of instruction in a *classroom* course for continuing education if a final examination is given.

Sec. 15. NAC 645.455 is hereby amended to read as follows:

645.455 1. An application for the approval of a course for continuing education must be submitted to the Division on a form provided by the Division . ~~{for review and presentation to the Commission.}~~

2. The *Division, on behalf of the* Commission , may grant retroactive approval for a course for continuing education.

3. The *Division, on behalf of the* Commission , will grant credit for a course for continuing education only if:

(a) The course consists of at least 3 hours of distance education or *1 hour of* instruction in a classroom.

(b) For a course of instruction in a classroom, the sponsor of the course:

(1) Certifies the attendance of licensees who take the course for credit.

(2) Maintains for at least 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee in attendance and the number of his or her license.

(II) The title and number of the course.

(III) The hours of instruction attended and dates of attendance by the licensee.

(IV) A statement that the licensee has successfully completed the course, if applicable.

(3) Assures the ~~{Commission}~~ *Division* that an approved instructor will preside throughout the course.

(c) For a course of distance education, the sponsor of the course:

(1) Requires each student to:

(I) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the Division and receive a score of at least 75 percent to pass the course;

(II) Prove his or her identity before the student is allowed to take any examination;

(III) Complete an entire course to receive credit for taking the course; and

(IV) Complete each course within an established minimum and maximum time.

(2) Gives credit for only the number of hours for which the course has been approved by the Division to a licensee who has completed the course.

(3) Publishes a policy for retaking an examination which a licensee failed.

(4) Maintains for at least 4 years a record of completion of the course which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee who completes the course and the number of his or her license.

(II) The title and number of the course.

(III) A statement that the licensee has successfully completed the course which includes, without limitation, the date that the course was completed and the number of hours completed.

4. If a course is approved, the sponsor shall ~~provide~~ :

(a) Provide a ~~certified copy of the record of attendance or record~~ *certificate* of completion to the licensee upon his or her completion of the course. ~~The Division shall accept the certificate as proof of the attendance of the licensee or completion of the course by the licensee for the purpose of renewal or reinstatement of his or her license. If the course is taken at a university or~~

~~community college, the proof of attendance must be a certified transcript.~~ The certificate ~~of a sponsor~~ must contain the:

~~(a)~~ (1) Name of the sponsor;

~~(b)~~ (2) Name of the licensee and his or her license number;

~~(c)~~ (3) Number of hours of credit for continuing education for which the course is

approved;

~~(d)~~ (4) Dates of instruction for a course of instruction in a classroom;

~~(e)~~ (5) Date of completion of the course for a course of distance education;

~~(f)~~ (6) Title of the course or seminar;

~~(g)~~ (7) Number of the ~~sponsor~~ *course* assigned by the Division and a statement that the course was approved by the *Division on behalf of the* Commission;

~~(h)~~ (8) Signature of the person authorized to sign for the sponsor;

~~(i) Grade received by the licensee or a~~

(9) *A* statement of whether the licensee ~~passed~~ *successfully completed* the ~~class~~ *course* if an examination was given; and

~~(j)~~ (10) Manner in which instruction for the course was delivered.

(b) Within 3 business days after the completion of an approved course of continuing education, electronically submit to the Division, in a format provided by the Division, a roster which includes the name of each licensee or holder of a permit who successfully completed the course.

5. If the Division, on behalf of the Commission, denies an application for approval of a course of continuing education, the applicant may appeal the decision of the Division by filing

an appeal with the Commission not later than 30 days after the date on which the applicant received notification of the denial of the application for approval of the course.

6. If an applicant files a timely appeal pursuant to subsection 5, the Commission will, as soon as practicable, hold a hearing concerning the denial of the application for approval of the course of continuing education at a regularly scheduled meeting of the Commission and will:

(a) Affirm the decision of the Division to deny the application for approval of the course;

or

(b) Reverse the decision of the Division to deny the application for approval of the course.

Sec. 16. NAC 645.463 is hereby amended to read as follows:

645.463 1. A course may not be taken for credit to meet the requirements for continuing education more than once during ~~any two consecutive periods for renewal of a license.~~ *a single licensing period.*

2. Courses taken to satisfy requirements for renewal or reinstatement of a license must be completed within 2 years immediately before the latest date for renewing or reinstating the license.

3. A licensee may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and completed at least 90 percent of the course.

4. The sponsor shall determine whether a final examination is required for the completion of a course.

Sec. 17. NAC 645.695 is hereby amended to read as follows:

645.695 1. The Administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for each violation of the following provisions:

	For each Offense
NRS 645.252.....	\$500
Subsection 4, 5 or 6 of NRS 645.310.....	1,000
NRS 645.530.....	100 per license
NRS 645.550.....	500
NRS 645.560.....	500
Subsection 1 of NRS 645.570.....	250
Subsection 2 of NRS 645.570.....	500
Subsection 1 of NRS 645.580.....	250
Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or (l) of subsection 1 of NRS 645.630.....	500
Paragraph (g) of subsection 1 of NRS 645.630.....	1,000
Paragraph (c), (e), (g), (h), (j), (k) or (l) of subsection 1 of NRS 645.633.....	500
Paragraph (a) or (f) of subsection 1 of NRS 645.633.....	250
Paragraph (i) of subsection 1 of NRS 645.633.....	1,000
Subsection 1, 2, 3, 4, 5 or 6 of NRS 645.635.....	500
Subsection 7 or 8 of NRS 645.635.....	1,000
Subsection 3 of NRS 645.660.....	1,000
NAC 645.4442.....	100 250

	For each Offense
NAC 645.448	100 250
<i>NAC 645.455</i>	<i>500</i>
NAC 645.610	500
NAC 645.620	500
NAC 645.627	500
NAC 645.632	500
NAC 645.637	500
NAC 645.640	500
NAC 645.645	500
NAC 645.650	1,000
NAC 645.655	1,000
<i>Subsection 2 of NAC 645.806.....</i>	<i>1,000</i>
<i>Subsection 3 of NAC 645.806.....</i>	<i>250</i>
NAC 645.855	2,000

2. In addition to or in lieu of imposing an administrative fine pursuant to subsection 1, the Administrator may:

- (a) Recommend to the Commission that the license of the licensee and any permit of the licensee be suspended or revoked;
- (b) Require a licensee to complete continuing education; or

(c) Take any combination of the actions set forth in paragraphs (a) and (b).

Sec. 18. NAC 645.806 is hereby amended to read as follows:

645.806 1. ~~{On or before the date of expiration of his or her license as a}~~ **A** real estate broker ~~{, a broker}~~ who ~~{engages in property management}~~ **receives money, including, without limitation, rent, a security deposit, a down payment, an advance fee or earnest money deposit,** or ~~{who associates with a}~~ **whose agent or** property manager ~~{who engages in property management}~~ **receives such money,** shall provide to the Division, on a form provided by the Division, an ~~{annual}~~ accounting as required by subsection 5 of NRS 645.310 which shows ~~{an annual}~~ **a** reconciliation of each trust account ~~{related to property management}~~ that he or she maintains.

2. The reconciliation required pursuant to subsection 1 must **be submitted to the Division annually by the expiration date of the license of the real estate broker. The reconciliation must** include the ~~{30 days}~~ **calendar month** immediately preceding the **calendar month of the** expiration date of his or her license as a real estate broker.

3. **If a real estate broker is not required to provide a reconciliation to the Division pursuant to subsection 1, the broker shall provide to the Division, on a form prescribed by the Division, a declaration to inform the Division that the broker is not required to provide a reconciliation of trust accounts. The declaration form must be submitted to the Division annually by the expiration date of the license of the broker.**

4. A broker who engages in property management or who associates with a property manager who engages in property management shall maintain complete accounting records of each trust account related to property management that he or she maintains for at least 5 years after the last activity by the broker which involved the trust account. If the records are

maintained by computer, the broker shall maintain an additional copy of the records on computer disc for at least 5 years after the last activity by the broker which involved the trust account.

5. A broker who violates the provisions of subsection 2 or 3 is subject to an administrative fine pursuant to subsection 1 of NAC 645.695.

Sec. 19. 1. The Real Estate Commission will not apply the amendatory provisions of this regulation to prevent a licensee from receiving credit for a course which the licensee completed before April 4, 2016.

2. As used in this section, “licensee” has the meaning ascribed to it in NAC 645.043.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R097-14**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 116 and 116A.

1. A clear and concise explanation of the need for the adopted regulation.

The purpose and need for LCB File R097-14 Section 1 is due to applicants having difficulty receiving experience verification from a broker for various reasons. This amendment would allow for a designated supervising manager of an office to verify the experience of an applicant/licensee.

The purpose and need for amendments to Section 2 assures that the Real Estate Division is provided with proper information from an individual who wants to hold an out-of-state cooperative broker certificate in Nevada. Proof that the individual is licensed and in good standing in another state because the Nevada broker cooperating with the out-of-state broker is responsible for the out-of-state broker's activities.

Section 3 eliminates the misuse of out-of-state cooperative broker certificates. Out-of-state cooperative broker certificates have been used to set up franchise offices outside of Nevada to conduct brokerages in other states which are not the intended use for a cooperative certificate. Limiting the certificate to a single and particular transaction and timeframe would correspond with other temporary licenses under the jurisdiction of the Real Estate Division.

The need for Sections 5-7 and 9 addresses a loop hole for distance education providers who claim reciprocity for their approval in another state.

Section 8 clarifies conflicting language in existing law regarding broker management pre-licensing education.

Section 10 clarifies that student evaluations and an investigation conducted by the Division are grounds for the Administrator to withdraw approval of a course.

Section 11 clarifies that a course will not be automatically approved if there is material change to the course.

Section 12 clarifies that a sponsor must only electronically submit the roster of students who met the requirements to have completed a course.

Section 13 contains corrections to address the electronic submittal of course rosters.

Section 14 expands topics reflecting the changes in the real estate market and broadens areas that were not previously included.

Section 15 give the Division authority to approve continuing education courses lessening the time that it takes an education sponsor to receive approval. Section 15 also sets forth an appeal process if a course is denied by the Division. Section 15 changes the number of hours that a continuing education course in a classroom must consist of from 3 hours to 1 hour.

Section 16 clarifies to licensees that a continuing education course can only be taken once during a single licensing period.

Section 17 adds and increases penalties. NAC 645.4442 requires first time licensees to submit post-licensing education within the first year immediately after initial licensing. The amendment would increase the administrative fine for failing to submit post-licensing education from \$100 to \$250. NAC 645.448 requires a licensee to submit 24 hours of continuing education before the end of each 2 year period. The amendment would increase the administrative fine for failing to submit 24 hours of continuing education before the 2 year period from \$100 to \$250. NAC 645.455 is regarding the records of completion that sponsors have to provide to licensees and what is required to be on the certificate. Incorrect or deficient certificates can cause a delay or hinder a licensee to renew their license. NAC 645.806(2) requires brokers who engage in property management to submit trust account reconciliation to the Division. The proposed amendment would allow the Division to issue an administrative fine of \$1,000 for not submitting their trust account reconciliation to the Division. NAC 645.806(3) requires a broker engaged in property management or associated with a property manager to maintain complete accounting records of each trust account related to property management for at least 5 years. The proposed amendment would allow the Division to issue an administrative sanction of \$250 for non-compliance.

Section 18 is needed to address property management, management of trust accounts and embezzlement. This amendment will assist in monitoring compliance and averting commingling and embezzlement of funds held in trusts.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Real Estate Division posted proposed changes to NAC 645.805, NAC 645.695 and NAC 645.141 on the Division's website for the public to review and comment. The Real Estate Commission held a public meeting on March 25-26, 2014 in which there was an agenda item regarding discussion and decision concerning Commission's consideration of proposed regulation changes, additions and deletions to NAC 645. There were no comments from the public regarding the proposed regulation changes.

The Division posted a notice of workshop for LCB File No. R097-14 scheduled for April 22, 2015. Notice of this workshop was posted on the Division's website and distributed through the Division's posting list. Educators commented on section 14 subsection 2(b) regarding writing and instructing a course on only most recently passed legislation. It was expressed that recent legislation includes local, state and federal legislation. Several sponsors spoke in

opposition to section 17 regarding the \$1,000 administrative sanction for violations of NAC 645.455 stating that it was too punitive.

The Division posted a notice of adoption for LCB File No. R097-14 scheduled for December 15, 2015. Notice of this adoption hearing was posted on the Division's website and distributed through the Division's posting list. Educators commented on section 14 subsection 2(b) again expressing that recent legislation include local, state and federal legislation. Also, several sponsors spoke in opposition to section 17 regarding the administrative sanction of \$1,000 for violations of NAC 645.455.

Interested persons may obtain a summary from:
Teralyn Thompson, Administration Section Manager
Nevada Real Estate Division
2501 East Sahara Avenue, Suite 303
Las Vegas, NV 89104
tlthompson@red.nv.gov
702-486-4036

3. The number of persons who:

(a) Attended each hearing:

April 22, 2015: 10
December 15, 2015: 29

(b) Testified at each hearing:

April 22, 2015: 5
December 15, 2015: 6

(c) Submitted to the agency written comments: 2

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3, as provided to the agency, is attached as Exhibit A.

Please see attached.

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #2.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The proposed regulation was adopted on December 15, 2015, and included changes suggested at workshops and the adoption hearing conducted.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**

Business which it is to regulate

(a) Both adverse and beneficial effects.

Adverse effects:

Section 3 adversely affects brokers from other states who have grown use to obtaining a cooperative certificate in Nevada and being able to utilize for 12 months in several transaction. The amendment would limit the certificate to one transaction within a 12 month period.

Section 17 fine for violation of NAC 645.4442 adversely affects licensees who do not submit mid-term continuing education certificates on time. The proposed regulation would increase the administrative sanction for failure to comply from \$100 to \$250. Section 17 fine for violation of NAC 645.455 would adversely affect education sponsors who habitual provide licensees with incorrect certificates of completion.

Beneficial effects:

Section 1 benefits licensees whose previous brokers are unavailable, deceased or not willing to communicate with the licensee. This would reduce the burden on licensees who need their experienced verified to obtain a broker license.

Section 11 benefits licensees and sponsors of educational courses of law and legislative update courses. The Division approving law and legislative update courses will ensure that these courses are approved and available to licensees in a timelier manner than having to wait until the Commission's next scheduled meeting.

Section 14 broadens the subjects in which a course for continuing education must contain. Real estate licensees could possibly receive continuing education in subject matters that are currently trending in the market place. Education sponsors can create courses based on trending topics.

Section 14 allows the Division to approve a course for continuing education on behalf of the Commission. As stated for section 11, this will ensure that courses are approved and available to licensees in a timelier manner than having to wait until the Commission's next scheduled meeting.

Section 15 amends the number of hours of instruction in a classroom for a continuing education course from at least 3 hours to at least 1 hour. This is beneficial to sponsors who would like to teach topic specific courses that do not have 3 hours of information.

(b) Both immediate and long-term effects.

Immediate effects:

Section 11 and 14 which gives the Division authority to approve a course for continuing education on behalf of the Commission would allow for timelier approval and availability of courses instead of sponsors having to wait 2 to 3 months for the next scheduled Commission meeting.

Long-term effects:

Long term effects due to amendments in section 15 regarding changing the hours of instruction in a classroom from at least 3 hours to at least 1 hour will create different topic specific courses for the Division to review and possibly approve. This will mean a wide array of course for continuing education for real estate licensees to choose from.

Public

(a) Both adverse and beneficial effects.

Adverse effects:

None.

Beneficial effects:

Section 14 broadens the education that a licensee receives which will benefit the licensee and public when conducting real estate transactions.

Proposed amendments to section 18 would protect homeowners who use property managers and renters who pay monies and security deposits to property managers. The proposed amendment would require brokers to submit annual trust account reconciliation to the Division or a declaration stating that the broker is not engaging in property management.

(b) Both immediate and long-term effects.

Immediate effects:

None.

Long-term effects:

Section 14 will long term make for a more educated licensee who will be equipped to educate clients while conducting real estate transactions.

The long term effect of section 18 would be a deterrent against misconduct, comingling of monies or embezzlement regarding trust accounts and would assist the Division in finding and investigating misconduct, comingling of monies and embezzlement regarding trust accounts.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for the implementation of LCB File No. R097-14.

- 9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed regulation duplicates.

- 10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

There are no federal regulations that apply.

- 11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

Section 17 of the proposed regulation increases administrative fines for violations of NAC 645.4442 and NAC 645.448 from \$100 to \$250. In 2014 the Division issued approximately 770 administrative fines due to violations of these two regulations.

The total annual amount that the Division expects to collect would be approximately \$192,500.

Section 17 of the proposed regulation adds a new administrative fine of \$500 for violations of NAC 645.455. January 2014 through November 2014 the Division received at least 22 incorrect certificates of completion provided to licensees from course sponsors violating NAC 645.455(4). The total annual amount that the Division expects to collect is difficult to determine at this time because the fine for this violation would be at the discretion of the Division and would not be administered per certificate.

Section 17 of the proposed regulation which adds new administrative fines for violations of NAC 645.806(2) and (3) are sanctions that the Division currently administers but has been placed into this portion of the proposed regulation.

Administrative sanctions go into the State's General Fund.